

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 110 —Sales/Use Tax—Exemptions**

**Proposed Rule**

**12 CSR 10-110.500 Architectural and Engineering Firm Computers.**

*PURPOSE: This rule explains when computer hardware and software purchased by architectural and engineering firms are exempt under section 144.030.2(28), RSMo.*

(1) In general, purchases of computer hardware and canned software are subject to tax. Purchases of computers, computer software, and computer security systems purchased for use by architectural or engineering firms “headquartered in this state” are exempt.

(2) Definition of Terms.

(A) Architectural firm – a firm that provides professional architectural services to others and holds either a corporate certificate of authority to practice architecture in Missouri or has two (2) or more principals or employees licensed to practice architecture in Missouri.

(B) Computer –The box that houses the central processing unit (CPU), along with any internal storage devices, internal communications devices, and other hardware stored or housed internally. Other hardware includes internal drives, internal memory cards, internal modems, video cards, laptop computers, security hardware attached to the CPU, such as thumbprint biometric recognition, server CPUs, sound cards, tablet computers and keyboards and monitors purchased with the computer. Other hardware does not include external drives, external modems, network devices (routers, hubs, switches, and cabling), printers, scanners, thumb drives and keyboards and monitors purchased separately from the computer.

(C) Computer security systems – software or hardware attached directly to or installed in a computer to improve its security.

(D) Computer software -the programs, routines, and symbolic languages installed on computer hardware that direct its operation.

(E) Engineering firm – a firm that provides professional engineering services to others and holds either a corporate certificate of authority to practice engineering in Missouri or has two (2) or more principals or employees licensed to practice engineering in Missouri.

(F) Facility - a building used for a revenue-producing enterprise. A complex of buildings at one (1) location is a single facility. A mobile office is not a facility.

(G) Headquartered in this state – the office for the administrative management of at least four (4) integrated facilities operated by the taxpayer is located in Missouri.

(H) Integrated facilities – facilities that function as a unified whole.

(3) Basic Application.

(A) Purchases of computers, computer software and computer security systems for use by architectural or engineering firms headquartered in this state are exempt from tax.

(B) The taxpayer must maintain an office in this state for the administrative management of at least four (4) integrated facilities located within or without this state.

(C) An integrated facility must be owned or leased by the taxpayer and offer architectural or engineering services to others. It is not sufficient if a facility is operated by an affiliate of the taxpayer that is a separate legal entity from the taxpayer.

(4) Examples.

(A) An individual is licensed by the state as an architect and operates as a sole proprietor. Although the individual employs support staff, the individual is the only licensed architect associated with the architectural business. By definition, the business is not an architectural firm.

(B) Two (2) licensed architects do business as a partnership. By definition, the business is an architectural firm.

(C) A manufacturing firm employs several engineers to provide engineering services for the firm's own projects. Neither the firm nor the individuals perform engineering services for anyone but the firm. The firm does not constitute an engineering firm.

(D) A corporation engaged in engineering and construction employs twenty (20) licensed engineers and holds a corporate certificate of authority to provide engineering services. The corporation provides engineering services to third party clients, sometimes in conjunction with construction services. The corporation leases permanent offices in St. Louis, Missouri; Kansas City, Missouri; Chicago, Illinois; and Overland Park, Kansas. All accounting, personnel management, and purchasing for the offices is done at the corporation's main office in St. Louis. Each office provides engineering services to others. The corporation may purchase its computers, computer software, and computer security systems exempt from tax.

(E) Same facts as (4)(D), except that the corporation's personnel in Illinois and Kansas work at job sites owned and controlled by the corporation's clients. The corporation owns or leases only the offices in St. Louis and Kansas City. The corporation cannot purchase computers, computer software, and computer security systems exempt from tax because it does not operate at least four (4) integrated facilities.

(F) Same facts as (4)(D), except that the facility in Overland Park, Kansas is only a manufacturing facility and does not provide any engineering services. The corporation cannot purchase computers, computer software, and computer security systems exempt from tax because it does not operate at least four (4) integrated facilities.

(G) Same facts as (4)(D), except that each of the offices is operated by a separately incorporated, wholly owned subsidiary of the parent company, which is located in St. Louis. The parent company provides accounting, personnel management, and purchasing services pursuant to contracts with each subsidiary. The members of the board and officers of each affiliated company are identical. The parent company and subsidiaries cannot purchase computers, computer software, and computer security systems exempt from tax because they are separate legal entities.

*AUTHORITY: sections 144.270 and 144.705, RSMo 2000. Original rule filed Sept. \_\_, 2008.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than \$500 in the aggregate*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Legal Services Division, Governmental Affairs Bureau, PO Box 475, Jefferson City, MO 65105-0475. To be considered comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

***Murphy Co. Mechanical Contractors & Engineers v. Director of Revenue***, 156 S.W.3d 339 (Mo. Banc 2005). The taxpayer qualifies as an engineering firm for purposes of section 144.030.2(28), RSMo, because it provides professional engineering services and holds a certificate of authority to offer engineering services in the state pursuant to section 327.401.2, RSMo.